

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, NOVEMBER 1, 2004 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chair: Werner; Council Members: Camp, Cook, Friendt, McRoy, Newman, Svoboda; Joan Ross, City Clerk.

Council Chair Werner asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

FRIENDT Having been appointed to read the minutes of the City Council proceedings of October 25, 2004, reported having done so, found same correct.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

PUBLIC HEARING

MANAGER APPLICATION OF MORRIS L. MOTES FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP AT 2925 N.W. 12TH STREET - Morris Motes, 2925 NW 12th Street, took oath and came forward for approval.

This matter was taken under advisement.

MANAGER APPLICATION OF DAWN M. WHALEN FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP AT 240 N. 17TH STREET - Dawn M. Whalen, 240 N. 17th Street, took oath and came forward for approval.

This matter was taken under advisement.

MANAGER APPLICATION OF BARBARA J. EHRISMAN FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP AT 942 S. 27TH STREET - Barbara J. Ehrisman, 2830 Kucera Drive, took oath and came forward for approval.

This matter was taken under advisement.

APPLICATION OF ERIC LEMKE DBA WINDSOR STABLES RECEPTION CENTRE FOR A LIQUOR CATERING LICENSE AT 1024 L STREET - Kelli Kerns, 12500 S. 25th Street, Roca, took oath and came forward on behalf of her partner, Eric Lemke, for approval.

This matter was taken under advisement.

CHANGE OF ZONE 04061 - APPLICATION OF ASPEN BUILDERS, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTH OF WEST A STREET AND EAST OF S.W. 27TH STREET - Lyle Loth with ESP Engineers, 601 Old Cheney Road, came forward on behalf of Aspen Builders for approval. Further discussion followed.

This matter was taken under advisement.

AMENDING CHAPTER 14.56 OF THE LINCOLN MUNICIPAL CODE ESTABLISHING A PERMIT PROCESS FOR ISSUANCE OF A PERMIT TO PLACE PRIVATELY OWNED OUTDOOR ARTWORK IN THE PUBLIC RIGHT-OF-WAY OR ON PUBLICLY OWNED PROPERTY - Jeff Cole, Urban Development Department, came forward for approval. Further discussion followed.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF OCTOBER 1 - 15, 2004 - Katherine Irons, 6706 Colby Street, came forward asking for approval of her claim against the City.

This matter was taken under advisement.

HEARING ON BRUBAKER RENTALS' NOTICE OF APPEAL APPEALING FROM THE IMPACT FEE DETERMINATION OF ARTERIAL STREET IMPACT FEES IMPOSED FOR THE MULTI-FAMILY DWELLING LOCATED AT 2300 B STREET AND REQUESTING A WAIVER OF SAID FEES - Michaela Hansen, Public Works and Utilities, came forward for approval. Further discussion followed.

This matter was taken under advisement.

MISC. 04010 - AMENDING CHAPTER 1.0, SECTION 2.2, AND CHAPTER 3.75 OF THE CITY OF LINCOLN DESIGN STANDARDS TO CLARIFY AND TO MODIFY PROVISIONS RELATING TO PORCHES, PRINCIPAL FACADES, GARAGES, DRIVEWAYS AND OTHER STANDARDS, AND TO AMEND PROCEDURES FOR WAIVERS AND APPEALS - Ed Zimmer, Planning Department, came forward for approval. Further discussion followed.

Glenn Cekal, 1420 "C" Street, came forward and asked questions regarding roofs, porches, and parking.

Ginny Wright, 814 Lyncrest Drive, came forward on behalf of the Neighborhood Alliance in support.

Cathy Beecham, 2540 "C" Street, with the Near South Neighborhood Association, came forward as a homeowner in support.

Jon Carlson, 1445 S. 20th Street, came forward in support.

Ed Zimmer, Planning Department, came forward for rebuttal and to answer the questions of Mr. Cekal. Further discussion followed.

This matter was taken under advisement.

SPECIAL PERMIT 04035 - APPLICATION OF CHRIS KODAD AND BELIEVER'S FELLOWSHIP CHURCH TO DEVELOP ANDREA'S COURT COMMUNITY UNIT PLAN CONSISTING OF 32 TOWNHOUSE UNITS AND A CHURCH, WITH REQUESTED WAIVERS TO ELIMINATE THE PRELIMINARY PLAT PROCESS, DETENTION/RETENTION STORAGE FOR STORM WATER, SIDEWALKS ON BOTH SIDES OF THE PRIVATE ROADWAY, MINIMUM LOT AREA, CUL-DE-SAC GEOMETRY, AND THE REQUIRED YARD SETBACKS, ON PROPERTY GENERALLY LOCATED AT 40TH AND SUPERIOR STREETS - Ron Ross, Ross Engineering, came forward for approval. Further discussion followed.

Chris Kodad, Ross Engineering, came forward for approval. Further discussion followed.

Andrea Kodad, 2231 Calvert Street, came forward in support and to state that she felt that Ross Engineering was misrepresented with unfair and presumptuous comments from the City Council. Further discussion followed.

Duane Wendelin, 4110 N. 42nd Street, came forward in opposition.

David Tinius, 4121 N. 42nd Street Circle, came forward in opposition. Further discussion followed.

Joseph Sloup, 4001 Turner Street, came forward in opposition.

Nicole Fleck-Tooze, Public Works and Utilities, came forward to answer questions of the Council. Further discussion followed.

Greg Czaplewski, Planning Department, came forward to answer questions of the Council. Further discussion followed.

Ron Ross, Ross Engineering, came forward for rebuttal. Further discussion followed.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS - NONE

**** END OF PUBLIC HEARING ****

****TOOK BREAK 3:17 P.M.**

RECONVENED 3:25 P.M.**

COUNCIL ACTION

LIQUOR RESOLUTIONS

MANAGER APPLICATION OF MORRIS L. MOTES FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP AT 2925 N.W. 12TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83061 WHEREAS, Whitehead Oil Company dba U-Stop Convenience Shop located at 2925 N.W. 12th Street, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Morris L. Motes be named manager;

WHEREAS, Morris L. Motes appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Morris L. Motes be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF DAWN M. WHALEN FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP AT 240 N. 17TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:
A-83062 WHEREAS, Whitehead Oil Company dba U-Stop Convenience Shop located at 240 N. 17th Street, Lincoln, Nebraska has been approved for a Retail Class "B" liquor license, and now requests that Dawn M. Whalen be named manager;

WHEREAS, Dawn M. Whalen appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Dawn M. Whalen be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF BARBARA J. EHRISMAN FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP AT 942 S. 27TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:
A-83063 WHEREAS, Whitehead Oil Company dba U-Stop Convenience Shop located at 942 S. 27th Street, Lincoln, Nebraska has been approved for a Retail Class "B" liquor license, and now requests that Barbara J. Ehrisman be named manager;

WHEREAS, Barbara J. Ehrisman appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Barbara J. Ehrisman be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPLICATION OF ERIC LEMKE DBA WINDSOR STABLES RECEPTION CENTRE FOR A LIQUOR CATERING LICENSE AT 1024 L STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:
A-83064 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinance, the City Council recommends that the application of Eric Lemke dba Windsor Stables Reception Centre for the issuance of a Catering Permit to the existing liquor license, located at 1024 L Street, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all city and state regulations.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted by the City Clerk to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ORDINANCES - 2ND READING

CHANGE OF ZONE 04061 - APPLICATION OF ASPEN BUILDERS, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTH OF WEST A STREET AND EAST OF S.W. 27TH STREET - CLERK read an ordinance, introduced by Glenn Friendt, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

AMENDING CHAPTER 14.56 OF THE LINCOLN MUNICIPAL CODE ESTABLISHING A PERMIT PROCESS FOR ISSUANCE OF A PERMIT TO PLACE PRIVATELY OWNED OUTDOOR ARTWORK IN THE PUBLIC RIGHT-OF-WAY OR ON PUBLICLY OWNED PROPERTY - CLERK read an ordinance, introduced by Glenn Friendt, amending Chapter 14.56 of the Lincoln Municipal Code relating to works of art by amending Section 14.56.030 to allow the issuance of permits for the placement of privately owned outdoor artwork in the public right-of-way or on publicly owned property in all zoning districts; amending Section 14.56.070 to provide that the permittee assumes all risk of loss in placing art on city property including damages, vandalism, and/or destruction of the work; amending Section 14.56.110 to provide such permits may be issued for a period of one to five years; and amending Section 14.56.120 to provide for an application fee rather than a permit fee and to provide that a collection of art intended to be a coordinated exhibit may be submitted under a single master application and be subject to a single application fee and subsequent annual renewal fee; and repealing Sections 14.56.030, 14.56.070, 14.56.110, and 14.56.120 of the Lincoln Municipal Code as hitherto existing, the second time.

RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF OCTOBER 1 - 15, 2004 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83065 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated October 14, 2004, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

| | <u>DENIED</u> | <u>ALLOWED OR SETTLED</u> |
|-----------------|---------------|---------------------------|
| Katherine Irons | 1,781.55 | |

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Annette McRoy

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPOINTING RUTHELEN S. SITTLER TO THE LINCOLN AREA AGENCY ON AGING ADVISORY COUNCIL TO FILL AN UNEXPIRED THREE-YEAR TERM EXPIRING JULY 1, 2006 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83066 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Ruthelen S. Sittler to the Lincoln Area Agency on Aging Advisory Council to fill an unexpired three-year term expiring July 1, 2006 is hereby approved.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

HEARING ON BRUBAKER RENTALS' NOTICE OF APPEAL APPEALING FROM THE IMPACT FEE DETERMINATION OF ARTERIAL STREET IMPACT FEES IMPOSED FOR THE MULTI-FAMILY DWELLING LOCATED AT 2300 B STREET AND REQUESTING A WAIVER OF SAID FEES - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption for denial:

A-83067 WHEREAS, Charles Brubaker dba Brubaker Rentals, hereinafter Appellant, is converting a building located at 2300 B Street from an apartment house with three dwellings into an apartment house with four dwellings; and

WHEREAS, when said building was purchased by Appellant in 1960 it contained four dwellings but was downsized in 1963 into three dwelling and has remained as an apartment house with three dwellings since 1963; and

WHEREAS, the Impact Fee Administrator calculated the arterial street impact fees for this use based upon the net increase in dwellings from three dwellings to four dwellings using the Arterial Street Impact Fee Schedule beginning January 1, 2004 for multi-family (\$903.00 per dwelling); and

WHEREAS, the Appellant filed its Notice of Appeal appealing the impact fee determination and requesting that the arterial street impact fees be waived or reduced as Appellant previously used the building as an apartment house with four dwelling units and received no reimbursement for downsizing the apartment house into three dwelling units in 1963 and that strict application of the impact fee ordinance's calculations under these circumstances work an unjust and undue burden on the Appellant; and

WHEREAS, the City Council finds that the impact fee was correctly calculated and that there are no unusual circumstances of the development which demonstrate that the application of the fee to the development would be unfair or unjust as the requested waiver or reduction based upon the prior use of the property from 1960 through 1963 as a multi-family dwelling with four dwellings does not meet any of the stipulations or conditions required for reduction in or exemption from arterial street impact fees.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the impact fee notice of appeal filed by Charles Brubaker dba Brubaker Rentals on October 8, 2004 is hereby denied for the following reasons:

1. The impact fee ordinance requires the arterial street impact fee for this building to be calculated based upon the net increase in the number of dwellings from three dwellings to four dwellings.
2. The requested exemption does not meet any of the stipulations or conditions required for reduction or exemption from arterial street impact fees.

Introduced by Jonathan Cook

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MISC. 04010 - AMENDING CHAPTER 1.0, SECTION 2.2, AND CHAPTER 3.75 OF THE CITY OF LINCOLN DESIGN STANDARDS TO CLARIFY AND TO MODIFY PROVISIONS RELATING TO PORCHES, PRINCIPAL FACADES, GARAGES, DRIVEWAYS AND OTHER STANDARDS, AND TO AMEND PROCEDURES FOR WAIVERS AND APPEALS - PRIOR to reading:

COOK Moved to amend Bill No. 04R-289 in the following manner: On page 3, of Attachment 2, delete the following text, "Creating accessibility for physically handicapped shall be an exception to the requirement of front steps while working to assist a blend of architecture in the surrounding neighborhood. (Amended by Planning Commission, 10/13/04.)" Insert the following paragraph in its place, "The Planning Director may approve designs that do not meet this requirement upon receiving information that there are no other practical and reasonable means of providing accessibility to a new dwelling for persons with mobility impairments, and provided the design offers other features to enhance the compatibility of the new building with neighboring dwellings."

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83068 WHEREAS, the City of Lincoln has previously adopted the City of Lincoln Design Standards by Resolution No. A-80518; and

WHEREAS, a text change to the Design Standards is necessary under Chapter 1.00 - Request for Waiver Procedure, to revise Section 2.2 to allow waiver of Neighborhood Design Standard to be approved by the Planning Director or the Urban Design Committee, and under Chapter 3.75 to revise Sections 1-5 to clarify and modify provisions relating to porches, principal facades, garages, driveways, and other standards and to amend procedures for waivers and appeals.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

1. That Section 2.2 of Chapter 1.00 of the City of Lincoln Design Standards, adopted by the City Council on November 6, 2000 by Resolution No. A-80518, be and the same is hereby amended to read as shown on Attachment "A" which is attached hereto and incorporated herein by reference.

2. That Chapter 3.75 of the City of Lincoln Design Standards, adopted by the City Council on November 6, 2000 by Resolution No. A-80518, be and the same is hereby amended to read as shown on Attachment "B" which is attached hereto and incorporated herein by reference.

Introduced by Glenn Friendt

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 04035 - APPLICATION OF CHRIS KODAD AND BELIEVER'S FELLOWSHIP CHURCH TO DEVELOP ANDREA'S COURT COMMUNITY UNIT PLAN CONSISTING OF 32 TOWNHOUSE UNITS AND A CHURCH, WITH REQUESTED WAIVERS TO ELIMINATE THE PRELIMINARY PLAT PROCESS, DETENTION/RETENTION STORAGE FOR STORM WATER, SIDEWALKS ON BOTH SIDES OF THE PRIVATE ROADWAY, MINIMUM LOT AREA, CUL-DE-SAC GEOMETRY, AND THE REQUIRED YARD SETBACKS, ON PROPERTY GENERALLY LOCATED AT 40TH AND SUPERIOR STREETS - PRIOR to reading:

CAMP Moved to accept the substitute resolution for Bill No. 04R-241. Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SVOBODA Moved motion to amend #1 on Bill No. 04R-241S in the following manner: on page 3, strike lines 15, 16, and 17 (all of paragraph v.) and on page 4, line 10, delete the words "the north side" and insert in lieu thereof the words both sides.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

NEWMAN Moved motion to amend #2 on Bill No. 04R-241S in the following manner: on page 5, after line 31, insert the following new paragraph: xx. To contribute the equivalent cost of a 42-inch culvert, or equivalent combination of grading and drainage improvements, toward the improvement of the Turner Ditch drainage structure at Salt Creek provided the City uses its best efforts to get a proportionate contribution from other property owners whose development has an impact on Turner Ditch drainage.

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83069 WHEREAS, Chris Kodad and Believer's Fellowship Church have submitted an application designated as Special Permit No. 04035 for authority to develop Andrea's Court Community Unit Plan consisting of 32 townhouse units and a church, with requested waivers to eliminate the preliminary plat process, detention/retention storage for storm water, sidewalks on both sides of the private roadway, minimum lot area, cul-de-sac geometry, and the required yard setbacks on property generally located at 40th and Superior Streets, and legally described to wit:

The remaining portion of Lot 1, Hanson-Jordan Addition, located in the Northeast Quarter of Section 7, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, more particularly described as follows:

Beginning at a found 3/4" pipe, being the southeast corner of the remaining portion of Lot 1, Hanson-Jordan Addition to the City of Lincoln or the northeast corner of Lot 75 I.T., all located in the Northeast Quarter of Section 7, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska and said point is on the west right-of-way line of North 40th Street; thence north 89 degrees 43 minutes 34 seconds west (an assumed bearing) and on the south line of the remaining portion of Lot 1 of said Hanson-Jordan Addition or the north line of Lot 75 I.T. of said Section 7, a distance of 719.18 feet to a found 1" pipe being the point of non-tangent curvature; thence on a curve to the right, and on the south line of the remaining portion of Lot 1 of said Hanson-Jordan Addition or the north line of Lot 75 I.T. of said Section 7, having a radius of 256.48 feet, an arc length of 111.10 feet and a central angle of 24 degrees 49 minutes 05 seconds, with a chord bearing of north 77 degrees 01 minutes 27 seconds west, a chord distance of 110.23 feet to a found 1" pipe, being the southwest corner of the remaining portion of Lot 1 or the southeast corner of Outlot "A" of said Hanson-Jordan Addition; thence north 37 degrees 28 minutes 14 seconds east, and on the west line of the remaining portion of Lot 1 or the east line of Outlot "A" of said Hanson-Jordan Addition, a distance of 867.79 feet to a found 1" pipe, being the northwest corner of the remaining portion of Lot 1 or the northeast corner of Outlot "A" of said Hanson-Jordan Addition and also said point is on the south right-of-way line of Superior Street; thence north 89 degrees 29 minutes 57 seconds east, and on the north line of the remaining portion of Lot 1 of said Hanson-Jordan Addition or the south right-of-way line of said

Superior Street, a distance of 289.73 feet to a found 1" pipe, being the point of non-tangent curvature; thence on a curve to the right, and on the northerly line of the remaining portion of Lot 1 of said Hanson-Jordan Addition or the southerly right-of-way line of said Superior Street, having a radius of 20.00 feet, an arc length of 24.18 feet, and a central angle of 69 degrees 15 minutes 33 seconds, with a chord bearing of south 34 degrees 12 minutes 59 seconds east, a chord distance of 22.73 feet to a found 1" pipe, being a point on the west right-of-way line of said North 40th Street; thence south 00 degrees 18 minutes 48 seconds west, and on the east line of the remaining portion of Lot 1 of said Hanson-Jordan Addition or the west right-of-way line of said North 40th Street, a distance of 700.67 feet to the point of beginning and containing a calculated area of 410,046.25 square feet or 9.413 acres, more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this community unit plan will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Chris Kodad and Believer's Fellowship Church, hereinafter referred to as "Permittee", to develop Andrea's Court Community Unit Plan consisting of 32 townhouse units and a church, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves:
 - a. 32 dwelling units and a church and the following variances to the Land Subdivision Ordinance and Design Standards:
 - i. Detention/Retention storage for storm water.
 - ii. Cul-de-sac geometry.
 - iii. Minimum lot area for the single-family attached lots which contain less than 5,000 sq. ft.
 - iv. Required front and rear yard setbacks as shown on the site plan.
 - v. ~~Sidewalks on both sides of the private roadway in order to allow sidewalks only on the north side of the private roadway.~~
 - b. The requirement that the Permittee submit a preliminary plat is waived, except that this waiver of the preliminary plat shall only be effective for a period of ten years from the date of the this approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the approved community unit plan is submitted five years or more after the effective date of the community unit plan, the City may require that a new community unit plan be submitted, pursuant to all the provisions of Section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.
2. Final plats will be approved by the Planning Director after:
 - a. You have completed or posted a surety to guarantee the completion of the private roadway improvements, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosions control measures, drainageway improvements, street lights, landscaping screens, street trees, and street name signs.
 - b. The subdivider has signed an agreement that binds the subdivider, its successors and assigns:
 - i. to complete the street paving of the private roadway shown on the final plat within two (2) years following the approval of this final plat.

- ii. to complete the installation of sidewalks along both sides ~~the north side~~ of the private roadway, the west side of North 40th Street, the south side of Superior Street, and the connector sidewalk to the recreational area shown on the final plat within four (4) years following the approval of this final plat.
- iii. to complete the public water distribution system to serve this plat within two (2) years following the approval of this final plat.
- iv. to complete the private wastewater collection system to serve this plat within two (2) years following the approval of this final plat.
- v. to complete the enclosed drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.
- vi. to complete land preparation including open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat.
- vii. to complete the installation of street lights along the private roadway within this plat within two (2) years following the approval of this final plat.
- viii. to complete the planting of the street trees along the private roadway, North 40th Street, and Superior Street within this plat within four (4) years following the approval of this final plat.
- ix. to complete the installation of the street name signs within two (2) years following the approval of this final plat.
- x. to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards).
- xi. to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
- xii. to complete the public and private improvements shown on the preliminary plat.
- xiii. to submit to the lot buyers and home builders a copy of the soil analysis.
- xiv. to pay all design, engineering, labor, material, inspection, and other improvement costs.
- xv. to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- xvi. to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.
- xvii. to relinquish the right of direct vehicular access from Lots 1 and 32 to North 40th Street, and from Lot 33 to Superior Street, and North 40th Street except as shown.
- xviii. to timely complete the public and private improvements and facilities required by Chapter 26.23 of the Land Subdivision Ordinance which have not been waived including but not limited to the list of improvements described above.
- xix. to post the required security to guarantee completion of the required improvements if the improvements are not completed prior to approval of this final plat.
- xx. To contribute the equivalent cost of a 42-inch culvert, or equivalent combination of grading and drainage improvements, toward the improvement of the Turner Ditch drainage structure at Salt Creek provided the City uses its best efforts to get a proportionate contribution from other property owners whose development has an impact on Turner Ditch drainage.

3. Before receiving building permits:
 - a. The permittee must submit an acceptable, revised final plan including 5 copies.
 - b. Submit a Written Notice of Intent and Stormwater Pollution Prevention Plan for approval to the Lower Platte South NRD.
 - c. Submit an approved Section 404 permit, or a letter from the US Army Corps of Engineers stating such permit is not required.
 - d. The construction plans must conform to the approved plans.
 - e. Final Plats within the area of this community unit plan must be approved by the City.
 - f. Obtain a floodplain fill permit from the Building and Safety Department.
4. Before occupying the dwelling units all development and construction must be completed in conformance with the approved plans.
5. All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jon Camp

Seconded by Cook & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda; NAYS: Cook, Werner.

SETTING THE HEARING DATE OF MONDAY, NOVEMBER 15, 2004 AT 1:30 PM FOR A MANAGER APPLICATION FOR JAMES C. KELSEY FOR B & R STORES INC DBA RUSS'S B & R IGA LOCATED AT 130 NORTH 66TH STREET - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83070 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, November 15, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, NE, for the Manager Application of James C. Kelsey for B & R Stores Inc dba Russ's B & R IGA located at 130 North 66th Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

PETITIONS & COMMUNICATIONS

THE FOLLOWING WERE REFERRED TO THE PLANNING DEPARTMENT:

- Change of Zone No. 04071 - Application of Planning Director, to strike Sections 27.11.030(a), 27.11.040(s), 27.13.030(a)4, 27.13.040(s), 27.15.030(a), 27.15.040(v), 27.16.030(a)4, 27.16.040(v), 27.17.030(a)4, 27.17.040(t), 27.19.030(a)3, 27.19.040, 27.21.030(a)3, 27.21.040(q), 27.23.030(a)3, 27.23.040(p), Special Permit 27.63.520 Permitted Special Use; Churches; increased lot coverage of the Lincoln Municipal Code, to strike sections dealing with lot coverage for churches.
- Change of Zone No. 040472 - Application of Planning Director, to amend Section 27.63 of the Lincoln Municipal Code, for appeal procedures to the City Council.
- Change of Zone No. 04073 - Application of Mark Hunzeker, from P Public Use District to I-1 Industrial District, on property located at N. 33rd Street and Superior Street.
- Use Permit No. 04003 - Application of Olsson Associates, to waive the sign ordinance requiring on-premise grounds signs for each free standing pad site, internal side yard setbacks, the preliminary plat process, and all parking lots to encroach the external front yard setback, on property located at NW 48th Street and West Huntington Avenue.

Use Permit No. 04004 - Application of Highlands Townhomes LLC, for 94 dwelling units, with requests to waive the preliminary plat process and sanitary sewer, on property located at NW 13th Street and Fletcher Avenue.

Use Permit No. 04005 - Application of Brain D. Carstens on behalf of RLM LLC, for 38 single family attached units and two 5,000 square foot office buildings, with requests to waive rear and side yard setbacks, lot depth to width ratio, required frontage, and sanitary sewer, on property located at NW 1st and W. Barons Road.

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY THE CITY COUNCIL ON OCTOBER 25, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

REPORT FROM CITY TREASURER TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTH OF JULY THROUGH SEPTEMBER, 2004: VOICE STREAM PCSI, IONEX COMMUNICATIONS NORTH INC, COMTECH 21, Z-TEL COMM; SEPTEMBER, 2004: NOS COMM, MCI WORLD COM, GLOBALCOM INC, TRI-M COMM, LDMI TELECOMM, ASSOCIATION ADMINISTRATORS, ZONE TELECOM, ATT WIRELESS, TELECORP COMM, NEXTEL PARTNERS, LIGHTYEAR NETWORK SOLUTIONS, GTC TELECOM, ACCERIS COMM, TOUCH 1 COMM, D&D COMM, AFFINITY NETWORK, SPRINT SPECTRUM, AND AT&T COMM OF MIDWEST - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

REPORT FROM CITY TREASURER OF FRANCHISE TAX FROM AQUILA FOR THE MONTH OF SEPTEMBER, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk. (16-1)

ORDINANCES - 1ST READING & ASSOCIATED RESOLUTIONS

(Resolutions listed hereunder advance to Public Hearing on 11/8/04)

VACATION NO. 03023 - VACATING THE NORTH 10 FEET OF Q STREET RIGHT-OF-WAY ADJACENT TO LOTS 7, 8, AND 9, BLOCK 30, ORIGINAL PLAT OF LINCOLN, GENERALLY LOCATED AT 8TH AND Q STREETS - CLERK read an ordinance, introduced by Annette McRoy, vacating the north 10' of Q Street right-of-way adjacent to Lots 7, 8, and 9, Block 30, Original Plat of Lincoln, generally located at 8th and Q Streets, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

CHANGE OF ZONE 04057 - APPLICATION OF HOEGEMEYER PALMER CONSTRUCTION FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF S. 84TH STREET, SOUTH OF KATHY LANE - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

SPECIAL PERMIT 04042 - APPLICATION OF HOEGEMEYER PALMER CONSTRUCTION TO DEVELOP LATTIMER'S ADDITION COMMUNITY UNIT PLAN FOR 13 SINGLE FAMILY DWELLING UNITS, WITH REQUESTED WAIVERS TO THE PRELIMINARY PLAT PROCESS AND THE RECREATION PLAN REQUIREMENT, ON PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF S. 84TH STREET, SOUTH OF KATHY LANE.

AMENDING THE PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE WHICH IS PREFIXED BY THE LETTER "M" BY CREATING THE JOB CLASSIFICATION OF "UTILITIES SECURITY MANAGER" - CLERK read an ordinance, introduced by Annette McRoy, amending Section 1 of Ordinance No. 18418 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "M" by creating the job classification of "Utilities Security Manager", the first time.

AMENDING THE PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE WHICH IS PREFIXED BY THE LETTER "A" BY CHANGING THE JOB CLASSIFICATION TITLE "ASSISTANT SUPERINTENDENT OF EQUIPMENT MANAGEMENT" TO "ASSISTANT SUPERINTENDENT OF FLEET SERVICES" AND "SUPERINTENDENT OF EQUIPMENT MANAGEMENT" TO "SUPERINTENDENT OF FLEET SERVICES"; AND AMENDING THE PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE WHICH IS PREFIXED BY THE LETTER "C" BY CREATING THE JOB CLASSIFICATION OF "VISITOR SERVICES COORDINATOR" AND DELETING THE JOB CLASSIFICATION OF "METER READER III" - CLERK read an ordinance, introduced by Annette McRoy, amending Section 1 of Ordinance NO. 18412 relating to the pay schedules of employees whose schedules of

employees whose classifications are assigned to the pay range which is prefixed by the letter "A" by changing the job classification title of "Assistant Superintendent of Equipment Management" to "Assistant Superintendent of Fleet Services" and "Superintendent of Equipment Management" to "Superintendent of Fleet Services" and amending Section 3 of Ordinance No. 18412 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "C" by creating the job classification of "Visitor Services Coordinator" and deleting the job classification of "Meter Reader III", the first time.

ORDINANCES - 3RD READING

VACATION NO. 04003 - VACATING THE EAST-WEST ALLEY BETWEEN 21ST AND 22ND STREET, NORTH OF VINE STREET, AND VACATING THAT PORTION OF 21ST STREET BETWEEN VINE AND VACATED W STREET THAT HAS NOT ALREADY BEEN VACATED OR PURCHASED BY THE JOINT ANTELOPE VALLEY AUTHORITY, GENERALLY LOCATED AT 21ST AND VINE STREETS - CLERK read an ordinance, introduced by Jonathan Cook, vacating the east-west alley between 21st and 22nd Streets, north of Vine Street, and vacating that portion of 21st Street between Vine and vacated W Streets that has not already been vacated or purchased by the Joint Antelope Valley Authority, generally located at 21st Street and Vine Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

COOK Moved to pass the ordinance as read.
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
The ordinance, being numbered #18463, is recorded in Ordinance Book #25.

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$45,000,000 CITY OF LINCOLN NEBRASKA WATER REVENUE BONDS - PRIOR to reading:

SVOBODA Moved to accept the substitute ordinance.
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read an ordinance, introduced by Jonathan Cook, authorizing the issuance of Water Revenue Bonds, the third time.

COOK Moved to pass the substitute ordinance as read.
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
The ordinance, being numbered #18464, is recorded in Ordinance Book #25.

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to November 8, 2004.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on November 8, 2004.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ADJOURNMENT 3:48 P.M.

CAMP Moved to adjourn the City Council meeting of November 1, 2004.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
So ordered.

Joan E. Ross, CMC, City Clerk

Jamie Phillips, Senior Office Assistant

REGULAR MEETING
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